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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,355	05/16/2006	Lothar Koenig	P70705US0	1125
136 7590 11/19/2008 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER ROBERTSON, DAVID				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/541,355

**Applicant(s)**

KOENIG ET AL.

**Examiner**

Dave Robertson

**Art Unit**

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is a Final office action in response to Applicant's reply of 10/02/2008.

Claims 1-11 are pending.

#### ***Response to Amendment***

2. Applicant's amendments to the Specification and Abstract filed 10/02/2008 are acceptable and are entered into the record.
3. Applicant's amendments of 10/02/2008 to claims 1-11 to address rejections under 35 U.S.C. 112, 2nd paragraph, are acknowledged. According, rejections under 35 U.S.C. 112, 2nd paragraph, are withdrawn.

#### ***Response to Arguments***

4. Applicant's arguments filed 10/02/2008 have been fully considered but they are not persuasive:

Applicant argues distinction over Hirata (US Pat. 6,856,855) when taken in view of Applicant's admission of prior art because 1) in the present invention the weighting of the measured values is performed by the computer, and 2) Hirata's process of taking more measurements at shorter cycles [at the beginning of production] results in less precision wherein the present invention there is no shortening of the cycle time (Remarks, pg. 17).

As to taking more measurements at shorter cycles distinct from the claimed weighting, Examiner respectfully disagrees: Broadest reasonable interpretation of the

limitation to which Applicant's arguments are directed: *measured values obtained during a predetermined time-frame at a start of the extrusion process...being more heavily weighted by the computer...*as recited in claims 1 and 6, includes such "weighting" by the computer as may result from larger numbers of measurements taken in shorter cycle time at the start of the extrusion process. That the computer is using more numerous values at the start of extrusion compared to fewer values during normal operation is *weighting more heavily* the measure values obtained *during the predetermined time-frame at the start of the extrusion process*. That is, thickness measurements from at the start of the operation are more numerous than those taken in normal operation therefore have more "weight" in the control computers calculations.

As to the argument that shorter cycle times result in more or less precision and thus distinguishes the invention over Hirata, such an assertion may support an argument of an unexpected result of weighting measurements taken on with cycles times at the start and normal operation; however, Applicant has provided no showing in support of such a result and further has not specifically claimed measuring cycles which are neither shorter nor longer in the start-up or normal phases of extrusion.

5. Accordingly, the grounds of rejection over all claims as in the prior office action are maintained.

***Drawings***

6. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Hirata et al. (US 6,856,855).

As for claim 1 and 6, Applicant admits all the recited features of the preamble (Specification, Pages 1, line 15 to Page 2, line 3). However, Applicant does not disclose as prior art and states that his invention is characterized in that while providing the statistical values in relation to the older measured values, the latest measured value(s) during a predetermined time-frame at the start of the extrusion process are more heavily weighted by the computer (14) than those measured during the normal operation. Hirata teaches, statistical values in relation to the older measured values,

the latest measured value(s) during a predetermined time-frame at the start of the extrusion process are more heavily weighted by the computer (14) than those measured during the normal operation (Col. 3, lines 1-19; Col. 7, lines 1-12, i.e., at the beginning of production the control is carried out at short cycles, therefore measured values at the beginning or start of production are heavily weighted than during stable production or normal operation).

As for claim 2-5, and 7-11 Hirata further teaches,

Claim 2 (original): Process pursuant to claim 1 characterized in that the computer (14) determines the statistical values by taking into account measured values or information derived therefrom using a smaller number (N) of measuring cycles (MZ) during a predetermined time-frame at the start of the extrusion process than the number of measuring cycles used during the normal operation (Col. 3, lines 1-19; Col. 7, lines 1-12, i.e., at the beginning of production the control is carried out at short cycles, therefore measured values at the beginning or start of production are heavily weighted than during stable production or normal operation).

Claim 3 (currently amended): Process pursuant to one of the afore-mentioned claims claim 1 characterized in that the computer (14) determines the statistical values during a predetermined time-frame at the start of the extrusion process wherein at least one older measured value is provided with a smaller weighting factor than the weighing factor used during normal operation (Col. 3, lines 1-19; Col. 7, lines 1-12, i.e., at the beginning of production the control is carried out at short cycles, therefore measured

values at the beginning or start of production are heavily weighted than during stable production or normal operation).

Claim 4 (currently amended): Process pursuant to one of the afore-mentioned claims claim 1 characterized in that the computer (14) determines the statistical values during a predetermined time-frame at the start of the extrusion process wherein at least one recent measured value is provided with a larger weighting factor than the weighting factor used during normal operation (Col. 3, lines 1-19; Col. 7, lines 1-12, i.e., at the beginning of production the control is carried out at short cycles, therefore measured values at the beginning or start of production are heavily weighted than during stable production or normal operation).

Claim 5 (currently amended): Process pursuant to one of the claims 2 to 4 claim 2 characterized in that the number (N) of measuring cycles (MZ) and/or the weighting factors after the start of the extrusion process are made to approximate in steps the number (N) of measuring cycles (MZ) used in the normal operation and/or the weighting factors used in the normal operation (Col. 3, lines 1-19; Col. 7, lines 1-12, i.e., at the beginning of production the control is carried out at short cycles, therefore measured values at the beginning or start of production are heavily weighted than during stable production or normal operation).

As for claims 6-11, the same citations and comments applied to claims 1-5 above apply as well for these claims.

Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the teachings of applicant's admitted

prior art with the method for controlling the thickness of sheets manufactured by the extrusion of a material because it would provide an improved method that provides a sheet thickness controller that can uniformly and stably control the thickness of a sheet in a transverse direction (Hirata, Col. 2, lines 24-32)

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Akasaka (US Pat. No. 4,994,976) discloses basic control operation and characteristics of a heat-die extrusion control process including characteristics of startup operation on the extruded film (see Figures 1 and 13).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on 9 am to 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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